

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 73 - HB 1181

March 24, 2023

SUMMARY OF BILL AS AMENDED (006596): Requires a company that controls, processes or sells personal information to adhere to outlined requirements. Establishes personal information rights for consumers and requires applicable controllers to comply with consumer requests regarding personal information rights. Applies to a company that exceeds \$25,000,000 in revenue and that controls or processes personal information of at least 25,000 consumers and derives more than 50 percent of gross revenue from the sale of personal information or controls or processes personal information of at least 175,000 consumers during a calendar year. Provides exemptions to various organizations, agencies, institutions, and entities.

Establishes that the Attorney General and Reporter (AG) has exclusive authority to bring actions for an alleged violation. Authorizes the court to impose a civil penalty up to \$7,500 per violation as well as other relief the court determines appropriate.

Establishes that a controller or processor that complies with a privacy program that reasonably conforms to the National Institute of Standards of Technology (NIST) or other documented policies, standards, and procedures designed to safeguard consumer privacy, has an affirmative defense to a cause of action for a violation of this part. Establishes a violation of such is an unfair and deceptive act or practice under the *Consumer Protection Act of 1977*. Establishes that a consumer is not entitled to a private right of action upon such violation.

Effective July 1, 2025.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Any increase in the number of complaints handled by the AG is estimated to be not significant and can be handled by existing staff during normal work hours.
- Committing an unfair or deceptive practice under the *Consumer Protection Act of 1977* is a Class B misdemeanor offense.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

- Any additional AG duties resulting from the proposed legislation will be absorbed using existing resources.
- Any additional workload on the courts, as a result of this legislation, can be accommodated within existing resources and personnel.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.

IMPACT TO COMMERCE OF BILL AS AMENDED:

Other Commerce Impact – A precise impact to jobs and commerce in Tennessee cannot reasonably be estimated.

Assumptions for the bill as amended:

- The proposed legislation will result in increased expenditures for any controller that is fined due to a violation.
- A precise impact to jobs and commerce in Tennessee cannot reasonably be estimated due to multiple unknown variables such as the number of controllers operating in the state, the amount of fines a controller may be charged, the number of causes of action that may be brought against a controller, and any damages that may result of such causes of action.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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